IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

RP.No. 154 of 2007(Y)

AGAINST THE JUDGEMENT/ORDER IN WPC.27930/2006

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REVIEW PETITIONERS/PETITIONERS IN THE W.P.(C):

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1. KUNHAVA, AGED 60,
   MANGATTIL HOUSE, SWAGATHAMAD,
   CHERUSSOLA P.O.L, KOTTAKKAL,
   MALAPPURAM DISTRICT.

2. SHAFI, S/O.KUNJAVA,
   AGED 28, MANGATTIL HOUSE, SWAGATHAMAD,
   CHERUSSOLA P.O., KOTTAKKAL,
   MALAPPURAM DISTRICT.

BY ADV. SRI.P.K.VIJAYAMOHANAN

RESPONDENTS/RESPONDENTS IN THE W.P.(C):

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1. THE STATE OF KERALA, REPRESENTED BY
   THE SECRETARY TO HOME DEPARTMENT,
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE, KERALA
   POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
   CB CID, MALAPPURAM.

4. THE CIRCLE INSPECTOR OF POLICE,
   TIRUR CIRCLE, MALAPPURAM DISTRICT.

5. THE SUB INSPECTOR OF POLICE,
   KOTTAKKAL, MALAPPURAM DISTRICT.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

R.P.No.154 of 2007
and W.P.C.No.27930 of 2006

Dated this the 6th day of March 2007

O R D E R & J U D G M E N T

The petitioner has filed this review petition to review the order dated 03/01/2007. On that day, there was no representation for the petitioner and this court had proceeded to consider the statement filed by the investigating officer. The learned counsel for the petitioner submits that the absence of the petitioner's counsel was not wilful and occurred under circumstances which was beyond the control of the petitioner. The case was posted for filing the statement and it was assumed that after the statement was filed, the matter will be posted for hearing to another date. I am satisfied, in these circumstances, that the order dated 03/01/2007 can be recalled. The review petition is hence allowed and the order is recalled.

2. I have heard the learned counsel for the petitioner. The grievance raised by the learned counsel for the petitioner is that as a matter of fact, it must have been held that the offence under Section 436 I.P.C has been committed, at any rate. The

crime is registered only under Section 435 Cr.P.C. According to the petitioner, the offence under Section 11 of the Prevention of Cruelty against Animals Act is also committed by the accused person whoever he be.

3. I am satisfied that no specific directions need be issued in the matter now. The statement filed by the investigating officer shows that the investigation is in progress. Depending on the materials collected, the investigating officer will have to consider this contention raised by the learned counsel for the petitioner that, as a matter of fact, the offence punishable under Section 436 I.P.C and Section 11 of the Prevention of Cruelty against Animals Act are also committed. On the basis of the result of the investigation, the question must be considered and appropriate decision taken.

4. No further directions appear to be necessary. This writ petition is in these circumstances dismissed with the above observations.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006